

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

----- :
UNITED STATES OF AMERICA :
Plaintiff : CASE NO. 5:05 CR 131
-vs- :
ANDREW FIALKO : ORDER ACCEPTING PLEA AGREEMENT
Defendant : AND JUDGMENT AND NOTICE OF
----- : HEARING

UNITED STATES DISTRICT JUDGE LESLEY WELLS

This case is before the Court on a Report and Recommendation filed by United States Magistrate Judge William H. Baughman, Jr. regarding the change of plea hearing and plea agreement of Andrew Fialko which was referred to the Magistrate Judge with the consent of the parties.

On 16 March 2005, the government filed a one-count indictment against Andrew Fialko for conspiracy to possess with the intent to distribute and distribution of a controlled substance in violation of 21 U.S.C. § 846. On 14 April 2005, a hearing was held in which Andrew Fialko entered a plea of not guilty before Magistrate Judge Patricia A. Hemann. On 27 July 2006, Magistrate Judge Baughman received Andrew Fialko's plea of guilty and issued a Report and Recommendation ("R&R") concerning whether the plea should be accepted and a finding of guilty entered.

Neither party submitted objections to the Magistrate Judge's R&R in the ten days after it was issued.

On de novo review of the record, the Magistrate Judge's R&R is adopted. Andrew Fialko is found to be competent to enter a plea. He understands his constitutional rights. He is aware of the charges and of the consequences of entering a plea. There is an adequate factual basis for the plea. The Court finds the plea was entered knowingly, intelligently, and voluntarily. The plea agreement is approved.

Therefore, Andrew Fialko is adjudged guilty of Count One, in violation of 21 U.S.C. § 846.

Sentencing will be:

31 October 2006 at 2:00 p.m.

**Courtroom 18-A
18th Floor the United States District Court
801 West Superior Avenue
Cleveland, Ohio 44113**

IT IS SO ORDERED.

/s/Lesley Wells
UNITED STATES DISTRICT JUDGE

Dated: 23 August 2006